IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.245 OF 2007

Basling Urf Raj Bala Allam ...Appellant

vs.

The Municipal Corproation of
Greater Mumbai and another ...Respondents

Mr.Pradhan i/b Mr.A.R.Pitale for the Appellant
Mr.A.R.Patil,A.G.P. for Respondent No.2
Ms Geeta Jogalekar for Respondent No.1.

CORAM: A.S.OKA,J.
DATE : MAY 4,2007.

P.C.:

1. Heard Advocates for the parties. By this Appeal, the original Plaintiff has challenged the order dated 31st July 2006 passed by the learned Judge of the City Civil Court, Mumbai by which a Notice of Motion for injunction taken out by the Appellant-Plaintiff has been dismissed.

2. The Notice of Motion has been dismissed on the ground that there were earlier suits filed by the Appellant-Plaintiff in the year 1995 and 1997 and the fact of filing the suits was not disclosed in the plaint.

3. During the course of hearing, the learned Advocate for the Respondent No.1 has pointed out that a representation was made by the Appellant for regularisation of the suit structure and the same has been rejected by the first Respondent-Corporation. The learned Counsel for the Appellant

states that a copy of the order of rejection has not been supplied to the Appellant. The Advocate for the first Respondent has today supplied a copy of the said communication/order to the Advocate for the Appellant.

4. Considering the findings recorded by the learned trial Judge and rejection of the proposal for regularisation, no case is made out for interference with the discretionary order passed by the trial court.

5. At this stage, the learned Counsel for the Appellant prays that a reasonable time may be granted to the Appellant to file appropriate proceedings for challenging the order rejecting the Application for regularisation. The learned Counsel for the Appellant states that the earlier application made by the Petitioner to the Deputy Commissioner of the first Respondent has not been decided and he may be granted liberty to file appropriate application before the Executive Engineer, Building Proposal, Municipal Corporation of Greater Mumbai.

6. Hence, I pass the following order :

i) Appeal is dismissed with no order as to costs.

ii) Notwithstanding the dismissal of the Appeal, it will be open for the Appellant either to challenge the

earlier order of rejection of his Application or to submit a fresh proposal for regularisation before the Executive Engineer, Building Proposal Department of the first Respondent-Corporation.

iii) To enable the Appellant to do so, for a period of 10 weeks from today, the parties will maintain status quo as of today in respect of the suit structure.

JUDGE